

BILL ANALYSIS

Senate Research Center

H.B. 2329
By: Hilderbran
Natural Resources
Subcommittee on Water
05-24-91
House Engrossment

BACKGROUND

Texas water law for groundwater is based on the "common law" or English rule-of-capture. The landowner has the right to use the water beneath the surface of the owner's land for beneficial use without limitation.

The Edwards Aquifer has long been a center of controversy, with multiple interest in the use of the groundwater. Growing municipal needs, in addition to the agricultural interests of the state, have placed a strain on the state's groundwater resources.

The Guadalupe Blanco River Authority filed a law suit against individual users, including irrigators who depend on groundwater for their crops and livestock, in an attempt to have the court declare that the Edwards Aquifer is an underground river, and thereby give regulatory authority over the water in the aquifer to the Texas Water Commission.

PURPOSE

As proposed, H.B. 2329 defines a "defined subterranean stream" as an underground stream possessing all of the characteristics of a surface watercourse, not including an underground reservoir or aquifer, and provides that the water of such a stream is property of the state.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.002, Water Code, by adding the definition of "defined subterranean stream."

SECTION 2. Amends Section 11.021, Water Code, to provide that water beneath the surface of the ground that is the flow of a defined subterranean stream is state property.

SECTION 3. Amends Section 52.001, Water Code, to assign the same meaning to "defined subterranean stream" for the purposes of this section as that provided in Section 11.002 of this code.

SECTION 4. Emergency clause.
Effective date: upon passage.